

TEACHERS' RETIREMENT BOARD MEETING SEPTEMBER 9 & 10, 2004

CALL TO ORDER:

Chairman Tim Ryan called the meeting to order at 8:30 a.m., in the Great Falls School Administration Building, Aspen Conference Room, 1100 Fourth Street South.

BOARD MEMBERS PRESENT:

Tim Ryan, Chairman
Mona Bilden
Scott Dubbs
Barbara Foster
Kari Peiffer
James Turcotte

STAFF PRESENT:

David L. Senn, Executive Director
Tammy Rau, Deputy Executive Director

OTHERS PRESENT:

September 9, 2004:

Jerry Pauli, Superintendent, Thompson Falls Schools
Bill Thomas, Retired Teacher
Charlene Suckow, Retired Teacher
E. Ben Lamb, Retired Teacher
Bob Jewell, Retired Teacher
Fred Anderson, Principal, Great Falls High School
Tom Bilodeau, MEA-MFT

September 10, 2004

Don Walters, Executive Director, Montana Retired Teachers' Association, *in absentia*
E. Ben Lamb, Retired Teacher
Bob Jewell, Retired Teacher
Tom Bilodeau, Director of Research & Bargaining, Retired Program Coordinator, MEA-MFT
Joanne Wright, Disability Applicant

ADOPT AGENDA – SEPTEMBER 9, 2004:

Chairman Tim Ryan called for additions or changes to the Agenda for September 9, 2004. Seeing none, Chairman Ryan requested a motion to adopt the Agenda. Ms. Barbara Foster moved that the agenda be approved. Seconded by Mr. Scott Dubbs, the motion carried unanimously.

ADOPT MAY 2004 MINUTES:

Chairman Ryan called to approve the minutes from the May 14, 2004 Board meeting. Ms. Foster moved that the May 14, 2004 minutes be adopted. Seconded by Mr. Dubbs, the motion carried unanimously.

PUBLIC COMMENT:

Chairman Ryan asked that each person present introduce himself or herself; provide some information about their background and their interest in the Teachers' Retirement System.

Chairman Ryan called for public comment on Board related items.

Mr. E. Ben Lamb, retired member, commented that TRS retired members received only a 1.5% GABA, while all other State retirement systems received 3.0%. He stated he understood the funding constraints that limited TRS to 1.5%, and asked if the Board was going to consider increasing GABA to 3.0%. Chairman Ryan responded that the TRS Board is totally committed to increasing GABA to 3.0%, but, without additional contributions, it would not be possible to increase GABA in the near future.

Dr. Jerry Pauli, Superintendent, Thompson Falls Schools, stated that he has been a member of the system since 1967 and that he would like to compliment the Board and Staff for the excellent work they do and their willingness and ability to always answer questions when he has called the office.

EXECUTIVE DIRECTOR'S REPORT

Communication Plan – Mr. David Senn, Executive Director, TRS, reviewed the draft communication plan and recommendations prepared by Steve Juetten, Communications Consultant, Milliman, USA. Mr. Senn recommended the Board adopt a prioritized list of recommendations and approve a budget amendment as required.

Motion/Vote: Mr. Scott Dubbs moved to increase the 2005 annual budget by \$15,000, and to direct staff to work with the communications consultant to create a MTRS brand and to review and make recommendations regarding the TRS Web site and the Annual Member Statement of Account. Seconded by Mr. James Turcotte, the motion carried unanimously.

Federal Minimum Distribution Rules – Final Release – Mr. Senn reported that on June 15, 2004, the IRS issued final regulations for required minimum distributions related to defined benefit (DB) plans, and annuity contracts purchased with account balances from qualified plans, IRAs, 403(b) annuity contracts, and 457(b) deferred compensation plans. With certain exceptions, governmental DB plans are subject to these rules. Under the final regulations, TRS members electing a 100% joint and full survivor option (TRS Option A) will be eligible to designate a non-spouse beneficiary that is more than 10 years younger than the member.

The final regulations also include a grandfather clause covering benefits in effect before April 17, 2002, but that do not comply with the new regulations. The TRS has one benefit provision

that will be protected under the grandfather clause: §19-20-702, MCA. This statutory provision allows a retiree to elect a different joint and survivor option and to designate a new beneficiary within 18 months of the death of or divorce from the original beneficiary. This opportunity to change beneficiaries and retirement options would not comply with the new regulations. Future amendments to this section must comply with the new regulations.

Quality Planning for Retirement – Task Force – Dr. Jerry Pauli, Superintendent, Thompson Falls Schools, recommended that the School Administrators of Montana (SAM) create a task force whose responsibility would be to develop information about retirement for Montana educators. Mr. Senn explained that he believed the task force could be used as an advocate for the Teachers' Retirement System, but was concerned the advice in Dr. Pauli's documentation was directed primarily toward administrators, and how they might increase their final average salary and monthly TRS benefits both prior to and after retirement.

Dr. Pauli provided background information on how the idea of a task force came about. He identified the need for retirement planning for current teachers and administrators that goes beyond the basic needs met by the Teachers' Retirement System. Members need to understand the TRS so that they can plan their future and know if they would be better off staying in Montana teaching for 25 years and then moving out of state, or if they would be better off beginning their teaching careers out of state and then returning. They need to know what it will cost them to purchase out-of-state teaching service, and how they become eligible to purchase that service. Dr. Pauli stated there should be a book that explains the benefits and advantages of going to another state, and the benefits that each state offers. He gave examples of retired Montana educators moving out of state and buying their Montana service in another public retirement plan, retiring under the second plan, and drawing two retirement benefits based on the same service.

Dr. Pauli also spoke about the school funding problems in Montana and how salaries are the number one reason Montana is not competitive with other states. He stated that in Thompson Falls it would cost his district \$1 million to increase a beginning teacher's salary from \$22,000, to \$32,000. And, it would cost the state \$1 billion to increase beginning teacher salaries to 72% of the national average.

He asked, why would there be a cost to the TRS if members were allowed to retire, draw their TRS benefits, and then continue to work and pay into the system, without accruing any additional TRS benefits? He does not understand why it would cost the system anything because there would be no new liabilities for the retired member, no liabilities for the new member who would have replaced the retired member, and the system would continue to collect the employee and employer contributions. In other words, wouldn't it make the system more solvent? He also explained that he had spoken with administrators who just want the additional income from the retirement system and they do not understand why it would hurt the TRS. Chairman Ryan responded that we would have the System's actuary review Dr. Pauli's proposal and address the question during the November 12, 2004 meeting.

Chairman Ryan suggested that the task force include an actuary in their planning meetings so that everyone understands the impact the various proposals will have on the TRS. Dr. Pauli conveyed his agreement.

Chairman Ryan asked Dr. Pauli if the meetings and records of the task force would comply with the State's open meeting laws. Dr. Pauli responded in the affirmative.

Mr. Turcotte commented that the task force has to remain conscious of the administrative cost to enhance benefits, and the time and cost to provide the additional information. And, asked who is going to pay the bill? The TRS cannot be expected to fund all of the services the task force may deem necessary or desirable.

Chairman Ryan thanked Dr. Pauli for his comments and recommendations, and for taking the time to travel to Great Fall and meet with the Board this evening.

Executive Summary – Mr. Senn reviewed with the Board the Actuary's letter of September 2, 2004 regarding the impact on the retirement factors of changing the actuarial assumed interest rate from 8.0% to 7.75%. The new termination pay factors under option 1 will increase slightly because assumed future earnings are less, necessarily requiring a larger contribution at the time of retirement to actuarially fund the benefit increase. The new service purchase formula for determining the actuarial cost to purchase service will result in larger factors at older ages because of lower anticipated investment earnings. However, factors at younger ages are smaller than current factors because smaller anticipated salary increases make the anticipated benefit smaller. Depending on the retirement option selected, and the ages of the member and their beneficiary, the optional retirement factors will also be reduced to account for the lower than anticipated investment returns.

Actuarial Review/Audit – Mr. Senn reported that Mellon Human Resources and Milliman have been working together on the actuarial audit; sharing information required for the review/audit of the past two experience studies Milliman has completed for the TRS, and a replication audit of the July 1, 2004 actuarial valuation. Through August 2004, Mellon had not reported any findings or concerns regarding the experience studies. Mellon's fixed fee for this service is \$28,000; and, through July 2004, the TRS has received invoices totaling \$3,172.00. In addition to the cost of the review/audit, the TRS anticipated we would incur additional charges of approximately \$10,000 from our consulting actuary, Milliman, USA, for work related to the audit. Through July 2004, Milliman has billed the TRS \$4,379.00.

Employer Reporting System – Mr. Senn reported that development to replace the TRS Employer Web Reporting System was slightly ahead of schedule, and that we anticipate the new system will be completed under budget and on time.

Settlement Agreement – In May 2004, the Board approved a settlement agreement allowing Carolyn R. Keefe's stepfather, Bruce Heckman, to repay minor child benefits she received in error at the rate of \$200 per month, for a total of 50% of the amount overpaid. Mr. Senn reported that through August the TRS had received payments for May, June, and July. The August payment was overdue.

PROPOSED LEGISLATION - 2005 SESSION

Actuarial Funding – The Board reviewed the September 1, 2004 letter from the Actuary, Mark Olleman, regarding the projected TRS funded status as of July 1, 2004, and the increased

contribution rate required to maintain a 30-year amortization schedule. Mr. Olleman estimated, based on returns through June 30, 2004, and the 2002 member data, that a 2.64% increase in the employer contribution rate would be required. If the increase were graded-in with four equal increases on July 1st of 2005, 2007, 2009 and 2011, then four increases of 0.78% would be needed.

Mr. Senn presented a second letter from the Actuary dated September 1, 2004 regarding the cost impact of suggested new plan design changes for future members, and reviewed the history of the funding options the Board had discussed over the past year. Mr. Senn recommended the following changes in member benefits and employer contribution rate increases:

- Pay full benefits after 30 years of service and age 55, instead of 25 years of service at any age.
- Include the member's five highest consecutive years' earnings in the calculation of average final compensation instead of the three highest consecutive years' earnings.
- Increase the earliest age at which a member can receive an early retirement benefit from age 50 with 5 years of service to age 55 with five years of service.
- Amend §19-20-501, MCA, and replace the minimum rate of interest credited to member accounts from the current rate of 4.0% with a prudent standard tied to the short-term investment market.
- Increase the employer contribution rate to pick-up the difference between the total contribution rate required to fund the TRS and the savings which result from any benefit changes. In lieu of a one-time increase, an employer contribution rate increase should be increased in each of the next four biennia.
- Increase the University System's supplemental contribution rate from 4.04% to 5.66% to ensure amortization of the University System's past service liability by July 1, 2033 as required by §19-20-621, MCA.

Mr. Fred Anderson, Principal, Great Falls High School, thanked the Board for the opportunity to speak with them, and complimented the TRS staff on their professionalism and the excellent service he has always received. He stated that he agrees with the Executive Director's recommendation that the Board not change the multiplier for new hires from $1\frac{2}{3}\%$ to $1\frac{1}{2}\%$ as this would be a very regressive action which would not help schools in their recruitment of new teachers and administrators. He stated that he was an advocate for a 2.0% multiplier combined with a floor on the age when you could retire so that we do not retire people so they can go out of state.

Dr. Pauli commented that because of health insurance costs, people realistically are looking at not being able to retire until age 62 or 65, unless they have a spouse who has health insurance through their employment or they are going out of state to another job. He stated that he too would support a floor on the age at which a member could retire.

Mr. Bob Jewell, Retired Teacher, commented that he thought the level of benefits provided to teachers was ridiculous. He thought it was fine to talk about increasing multipliers for future retirees, but there are two groups, active and retired teachers. Mr. Jewell talked about the history of salaries paid to Montana teachers and the cost of insurance, stating that many retired teachers do not have health insurance; sighting as an example, a teacher he knows who after 19

years teaching in Montana was receiving only \$162.00 per month. Mr. Jewell commented on the legislation that required state retirees to pay state income taxes, and the fairness of benefits provided to teachers at $1\frac{2}{3}\%$ of their average final salary as compared to benefits paid to state judges at 3.0% of their average final salary, questioning the sufficiency of the TRS benefit multiplier. Mr. Jewell concluded, stating he would like to see a little more emphasis on the old retirees and decreased emphasis on future retirees.

TRS Housekeeping Proposal – The Board discussed the general housekeeping amendments as presented. In addition, Mr. Senn recommended that in lieu of canceling a retired member's benefit whenever they earn more than allowed under §19-20-804, MCA, that future benefits be reduced by \$1.00 for each \$1.00 they earn in excess of the maximum allowed. Retired benefits would be cancelled only if the monthly retirement benefit is reduced to \$0.00 or the retired member returns to full-time employment. Ms. Foster commented that she felt it was a good idea to reduce benefits rather than cancel a retired member's benefit when they earned more than allowed.

Professional Retirement Option – Mr. Tom Bilodeau, MEA-MFT, commented that the MEA-MFT would again this session support the "Professional Retirement Option," with an anticipated employer cost of 2.02% of salary. The intent of the proposal is to help retain experienced teachers and administrators in the public school system. This proposal would offer enhanced retirement benefits to members of the TRS who postpone termination and retirement until they are at least age 55 and have 30 or more years of creditable service. Eligible members would receive benefits calculated using a 2.0% multiplier rather than the current multiplier of $1\frac{2}{3}\%$. The effective date of the proposal would be July 1, 2007, and retired members who return to work and give up their current benefits would have to work at least two full years to be eligible for the enhanced benefit.

Guaranteed Annual Benefit Adjustment (GABA) Increases - Mr. Senn stated that at least two proposals have been discussed by the Montana Retired Educators Association to increase the GABA. The first proposal would increase GABA from 1.5% to 1.67% and would require approximately a 0.70% increase in the employer contribution rate. The second proposal would increase GABA to 3.0%, requiring a 6.08% increase in the employer contribution rate from 7.47% to 13.55%.

Mr. Jewell commented that increasing GABA from 1.5% to 1.67% was pretty small. He stated that he was all for getting 3.0% because PERS is getting 3.0%. Mr. Jewell suggested that we needed to look at other sources to fund GABA, and that we could do better on our investments. He encouraged the Board to support a 3.0% GABA, stating the 1.67% was kind of ridiculous.

Other Legislation & Public Comment:

Mr. Bilodeau provided the Board with an in-depth review of the proposal being developed to offer school districts a statewide health insurance program. The program would be available to both active and retired educators.

The Board Adjourned at 7:00 p.m., September 9, 2004.

The regular meeting of the Teachers' Retirement Board reconvened on Friday, September 10, at 8:30 a.m.; first considering items remaining from the September 9th Agenda.

PERSONNEL COMMITTEE

Ms. Tammy Rau, TRS, reviewed the changes recommended by the Department of Administration to the "Leave Time Performance Award Policy", explaining the recommendations did not materially change the policy approved by the Board in May 2004. If the Board does not have any other changes or comments on this policy, we will advise the Department of Administration that this is the final version.

Ms. Rau also reviewed the "Lump Sum Performance Reward Policy" stating that the draft had been given to staff for their comments and suggestions, and none were received. It is anticipated that the Board will make the final decision on the proper reward amounts. The personnel committee will continue to work on the "Lump Sum Performance Reward Policy" anticipating that a final policy would be presented to the Board in November for their consideration.

OTHER BUSINESS

Board of Investments Report

Chairman Ryan explained that the Teachers' Retirement and Public Employees' Retirement Boards each have a representative on the Board of Investments (BOI); and, that he is the TRS representative. Chairman Ryan reported that the Chief Investment Officer for the BOI recently retired and the Board is working with a consultant to review the BOI's procedures and how they invest state assets. Chairman Ryan commented on the role of the Board to set and monitor asset allocation, and review the returns of the Short Term Investment Pool; Domestics, International, and Private Equities; Real Estate Equity, and Domestic and International Fixed Income.

Next Meeting Date – November 12, 2004

The report on the actuarial audit and the July 1, 2004 TRS Valuation will be presented at the November 12th meeting.

Financial Statements, Budget, & Delinquent Agency Reports

Ms. Rau reviewed the delinquent agency report and informed the Board that Mountain View Elementary, had combined with another school district.

ADOPT AGENDA – SEPTEMBER 10, 2004:

Chairman Tim Ryan called for additions or changes to the Agenda for September 10, 2004. Seeing none, Chairman Ryan requested a motion to adopt the Agenda. Ms. Barbara Foster moved that the agenda be approved. Seconded by Mr. Scott Dubbs, the motion carried unanimously.

PUBLIC COMMENT

Chairman Ryan called for public comment on Board related items.

Mr. Jewell suggested that the Annual Report of Teachers' Retirement System identify the current occupation of each member of the Board.

INDIVIDUAL MEMBER PETITIONS

George W. Gerard – Mr. Senn explained that Mr. Gerard is a retired member who returned to full-time employment in October 2001; resulting in cancellation of his TRS benefits pursuant to §19-20-804, MCA. At the time his benefit was cancelled, he was receiving a monthly retirement benefit of \$1,619.72. This included GABAs of \$47.52. When he retired again in June 2002, his benefit was recalculated based on one additional year of creditable service, which should have resulted in a new monthly benefit, excluding GABA, of \$1,631.09. Under the provisions of §19-20-804, MCA, members reemployed for a minimum of one year of "full-time service" must receive a recalculated retirement benefit. Section 19-20-804(1), MCA, defines how a retirement benefit must be calculated; i.e., one-sixtieth of the member's average final compensation multiplied by the number of years of creditable service. Section 19-20-804(4)(c) states that the recalculated benefit must be based on the service credit accumulated at the time of the member's previous retirement plus any service credit accumulated subsequent to reemployment. Section 19-20-804, MCA, provides that the recalculated benefit is to be based on the member's average final compensation multiplied by the number of years of creditable service; it does not provide for the recalculation to include past GABAs.

Mr. Senn reported that Mr. Gerard's initial recalculated benefit was incorrectly paid at \$1,678.61 per month. This benefit included previously awarded GABAs of \$47.52, which also overstated the 2004 GABA. The overall effect was an overpayment in the amount Mr. Gerard received of \$1,096.51. Staff has advised Mr. Gerard that the overpayment must be returned to the TRS; Mr. Gerard appeals staff's decision.

Mr. Gerard stated that the issue here is a matter of fairness and he believes the statute governing the recalculation of benefits does not address GABA calculations. He stated that he believes GABA was not addressed in §19-20-804 because GABA legislation was passed several years after §19-20-804 was already on the books, and that by not amending §19-20-804 the legislature did not intend to exclude GABA from the recalculation of benefits. He stated that because the statute is silent on including GABA in the recalculation it is left to the discretion of the TRS to add it or not add it. He emphasized that it is a matter of basic fairness; he was receiving GABA before he returned to work for Flathead Community College and it should not have been taken away when his benefit was recalculated.

Mr. Gerard also argued that he did not work a full contract year and therefore his benefit should not have been recalculated. He stated that Administrator's contracts at Flathead community college are for 12 months; he only worked nine months.

Mr. Senn explained that §19-20-101, MCA, defines "full-time service" as service that is full-time and that extends over a normal academic year of at least nine months. Mr. Gerard worked nine months of a 12-month contract, earning \$37,500.00 and contributing \$2,681.28 to the TRS. Had the TRS not recalculated Mr. Gerard's benefit in June 2002, he would have been reinstated with a monthly benefit of \$1,619.72, which included GABAs of \$47.52. Currently, Mr. Gerard is receiving a monthly benefit of \$1,655.56.

Mr. Senn distributed a letter from Mr. Donald Walters, Executive Director, Montana Retired Educators Association, supporting Mr. Gerard's position regarding administrator contracts, and requesting the Board reevaluate the recalculation of benefits.

Mr. Dubbs stated that the question is should Mr. Gerard continue to receive the GABAs awarded previous to his benefit being recalculated? Mr. Dubbs stated that he agrees that he should. Adding that, had Mr. Gerard been receiving GABA for eight or nine years, he would suffer a significant loss of benefits not contemplated by the GABA legislation or the statute governing the recalculation of benefits.

Ms. Foster stated that she also agrees it is a matter of fairness.

Mr. Turcotte suggested, because the statute is silent, until it can be corrected, the TRS should recalculate the benefit to include previously awarded GABAs.

Chairman Ryan asked Vivian Hammill, Legal Counsel, TRS, if she could suggest a motion to recalculate benefits including previous awarded GABAs. Ms. Hammill responded that statutes are silent on a number of different questions, but that does not mean that boards get to do something the statute does not speak to. Ms Hammill suggested legislation be proposed to fix the problem retroactive to Mr. Gerard's second retirement effective date of July 1, 2002.

MOTION/VOTE: Mr. Dubbs moved the Board propose legislation to amend current law to include previously awarded GABAs when benefits are recalculated following a period of reemployment and to table action on Mr. Gerard's appeal. Second by Mr. Turcotte, the motion carried unanimously.

LEGAL COUNSEL REPORT

Vivian Hammill reported on the Annual Conference of the National Association of Public Pension Plan Attorneys.

Merle Farrier case. In March, Judge Sherlock ruled against the Teachers' Retirement System. His decision has been appealed to the Montana Supreme Court.

Ruey-Lin Lin case. Mr. Lin has appealed the Board's May 2004 decision to deny his request for an exemption to the 10% cap. A Hearings Officer has been appointed through the Department of Justice, Agency Legal Services Bureau. A decision is not expected before the end of October.

APPLICATIONS AND RETIREMENT BENEFITS

Regular, Survivorship, & Adjustments The Board reviewed the Regular, Survivorship, and Adjustment Report.

DISABILITY APPLICATIONS:

Executive Session to Discuss Disability Applications & Annual Reviews:

The Chair directed the meeting closed at 10:15 a.m. to review disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

Disability Retirement Applications – The meeting was reopened to the public at 10:35 p.m.

MOTION/VOTE: Ms. Mona Bilden moved that the disability application of Robert Craig Wren be approved. Seconded by Mr. Dubbs, the motion carried unanimously.

Mr. Turcotte moved that the disability application of Ms. Joanne H. Wright be tabled. Seconded by Ms. Bilden, the motion carried unanimously.

Ms. Foster moved that the disability application of Ms. Janet M. Faiman be approved. Seconded by Ms. Kari Peiffer, the motion carried unanimously.

Mr. Dubbs moved that the service retirement application of Ms. Linda Z. Coates be changed to a disability retirement application made retroactive to July 1, 2002, and that the disability application be approved. Seconded by Ms. Bilden, the motion carried unanimously.

Mr. Turcotte moved that Sherri R. Archer be excluded from future annual medical and earnings reporting requirements. Seconded by Ms. Foster, the motion carried unanimously.

Election of Officers

Chairman Ryan called for nominations for the position of Chair of the Teachers' Retirement Board. Mr. Turcotte nominated Scott Dubbs for the position of Chair. Chairman Ryan asked if there were any additional nominations. Ms. Foster nominated Tim Ryan. Seeing no further nominations, Chairman Ryan called for the vote. Tim Ryan was reelected Chair of the TRS Board.

Chairman Ryan called for nominations for Vice-Chair. Ms. Foster nominated Scott Dubbs for the position of Vice-Chair. Mr. Turcotte moved that nominations be closed and a ballot cast. Mr. Dubbs was elected Vice-Chair of the TRS Board unanimously.

ADJOURNMENT

Chairman Ryan moved that the September 2004 meeting be adjourned; Ms. Foster seconded.
The meeting adjourned at 11:45 a.m.

Chairperson _____

Executive Director _____